

APPENDIX

PROPOSED AMENDED RULES 6.3(d)&(e), ARIZONA RULES OF CRIMINAL PROCEDURE

(New language is underlined.)

Rule 6.3. Duties of Counsel; Withdrawal

- a) **Notice of Appearance.** [No change.]
- b) **Duty of Continuing Representation.** [No change.]
- c) **Duty Upon Withdrawal.** [No change.]
- d) [New] **Duty of Defense Counsel to Preserve the File in a Capital Case.** Defendant's counsel shall maintain the records of a capital case in a manner that will inform successor counsel of all significant developments relevant to the litigation, and provide the client's complete records and files, as well as all information regarding every aspect of the representation, to successor counsel.
- e) [New] **Duty of Successor Counsel to Collect and Preserve the File in a Capital Case.** Immediately upon undertaking representation, Defendant's counsel shall collect the complete file from prior counsel, and maintain the records and files in a manner that complies with subsection (d) above.

COMMENT

Each counsel representing a capital defendant shall make every effort to ensure that successor counsel is provided with the complete, original file and records consistent with the *ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, Guideline 10.13 (2003). The purpose of these rules is to ensure that files are maintained in accordance with the *ABA Guidelines* and to reduce the delay that sometimes occurs in preparing the file for transfer. A file should be properly maintained during the representation and properly stored so it can be expeditiously provided to successor counsel.

The entirety of the attorney's files, including, but not limited to notes, electronic files and correspondence, investigator produced product and mitigation specialist produced product, shall be included.